

## **Assembly Bill No. 370**

### **CHAPTER 186**

An act to add Section 3137 to the Business and Professions Code, relating to optometry.

[Approved by Governor September 6, 2005. Filed with  
Secretary of State September 6, 2005.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 370, Aghazarian. Optometry.

The Optometry Practice Act provides for the licensing and regulation of optometrists by the State Board of Optometry. Existing law authorizes the board to initiate disciplinary proceedings against a licensee for violations of the act.

This bill would generally require the board to file an accusation against a licensee within 3 years after the board discovers the act or omission that is the subject of the proceeding, or within 7 years after the act or omission occurred, whichever comes first, subject to certain exceptions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 3137 is added to the Business and Professions Code, to read:

3137. (a) Except as otherwise provided in this section, any accusation filed against a licensee pursuant to Section 11503 of the Government Code for the violation of any provision of this chapter shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging fraud or willful misrepresentation is not subject to the limitation in subdivision (a).

(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation in subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.

(d) If an alleged act or omission involves any conduct described in Section 726 committed on a minor, the 10-year limitations period in subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging conduct described in Section 726 shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging conduct received by the board on and after January 1, 2006.

(f) In any allegation, accusation, or proceeding described in this section, the limitations period in subdivision (a) shall be tolled for the period during which material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.